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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,306	11/26/2001	Troy A. Miller	DP-306204	8684

7590 05/11/2004

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EXAMINER

NGUYEN, XUAN LAN T

ART UNIT PAPER NUMBER

3683

DATE MAILED: 05/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/994,306

Applicant(s)

MILLER ET AL.

Examiner

Lan Nguyen

Art Unit

3683

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☒ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See *Continuation Sheet*.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 13-23.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

Continuation of 2. NOTE: Applicant's arguments filed on 04/26/04 have been considered but found non-persuasive. Applicant argues that Watanabe's push rod 30 goes through an O-ring and a sleeve while the instant invention's push rod does not. The Examiner would like to point out in figure 3 of the instant invention, the bore 42 with an O-ring illustrated but not numbered, and the element surrounding rod 106, comprising bore 42, said element, not numbered, is considered the equivalent of Watanabe's sleeve. Applicant further argues that Watanabe does not show a bridge but a bore 36 which was cited by the Examiner as the bridge. In the rejection of claims 17, 18 in the Final Rejection, the Examiner cited bore 36 to be the equivalent of the instant invention's slot. The solid portion surrounding the slot 36 is considered to be the bridge. In claim 21, the Examiner cited cylinder 3 from Watanabe which is shown in figure 1 to have a rod 10, and a connection to the vehicle on the bottom of cylinder 3. Watanabe's dampener is a fluid dampener hence, there would inherently be rod guide and an end cap to keep the fluid inside the cylinder 3. Gubitze is cited for the teaching of an expansible chamber and not for the actuating pin. Claim 23 is amended to change from the spring to the valve spool. Said structure is not supported by the specification because expansible chamber 96 of the instant invention seats neither the spring 104 nor the valve spool 100..

XLN

5/4/04

M. C. Graham
5/6/2004
MATTHEW C. GRAHAM
PRIMARY EXAMINER
GROUP 310